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HOUSE BILL NO. 2552

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 11, 2019)

(Patron Prior to Substitute—Delegate Brewer)

A *BILL to amend and reenact § 19.2-60.1 of the Code of Virginia, relating to search warrants; unmanned aircraft systems; service.*

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-60.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-60.1. Use of unmanned aircraft systems by public bodies; search warrant required.

A. As used in this section, unless the context requires a different meaning:

"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

"Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links, sensing devices, and the components that control the unmanned aircraft.

B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § 15.2-836 of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.

C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § 52-34.3; (ii) when a Senior Alert is activated pursuant to § 52-34.6; (iii) when a Blue Alert is activated pursuant to § 52-34.9; (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person; (v) by a law-enforcement officer following an accident where a report is required pursuant to § 46.2-373, to survey the scene of such accident for the purpose of crash reconstruction and record the scene by photographic or video images; (vi) by the Department of Transportation when assisting a law-enforcement officer to prepare a report pursuant to § 46.2-373; (vii) for training exercises related to such uses; or (viii) if a person with legal authority consents to the warrantless search.

D. The warrant requirements of this section shall not apply when such systems are utilized to support the Commonwealth or any locality for purposes other than law enforcement, including damage assessment, traffic assessment, flood stage assessment, and wildfire assessment. Nothing herein shall prohibit use of unmanned aircraft systems for private, commercial, or recreational use or solely for research and development purposes by institutions of higher education and other research organizations or institutions.

E. *A copy of the executed search warrant shall be served on the person who was the subject of the search warrant and the person whose property was the subject of the search warrant unless upon request, and for good cause shown, the circuit court grants an extension for such service for a period not to exceed 10 days after the use of the unmanned aircraft system has ended. Service may be accomplished by delivering a copy to the person who, or whose property, was the subject of the search warrant or by leaving a copy with any individual found at the person's usual place of abode who is a member of the person's family, other than a temporary sojourner or guest, and who is 16 years of age or older and by mailing a copy to the person's last known address. Good cause shall include, but not be limited to, a continuing criminal investigation, the potential for intimidation, the endangerment of an individual, or the preservation of evidence.*

~~E. F.~~ Evidence obtained through the utilization of an unmanned aircraft system in violation of this section is not admissible in any criminal or civil proceeding.

~~F. G.~~ In no case may a weaponized unmanned aircraft system be deployed in the Commonwealth or its use facilitated in the Commonwealth by a state or local government department, agency, or instrumentality or department of law enforcement in the Commonwealth except in operations at the Space Port and Naval/Aegis facilities at Wallops Island.

~~G. H.~~ Nothing herein shall apply to the Armed Forces of the United States or the Virginia National Guard while utilizing unmanned aircraft systems during training required to maintain readiness for its federal mission or when facilitating training for other U.S. Department of Defense units.